

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
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1998 Biennial Regulatory Review -- )  
Amendment of Parts 2, 25 and 68 of the )  
Commission's Rules to Further Streamline )  
the Equipment Authorization Process for )  
Radio Frequency Equipment, Modify the )  
Equipment Authorization Process for )  
Telephone Terminal Equipment, Implement )  
Mutual Recognition Agreements and Begin )  
Implementation of the Global Mobile Personal )  
Communications by Satellite Arrangements )

GEN Docket No. 98-68

**COMMENTS OF AMSC SUBSIDIARY CORPORATION**

AMSC Subsidiary Corporation ("AMSC") hereby comments on the Commission's above-captioned proposal on interim procedures for the treatment of Global Mobile Personal Communications for Satellite ("GMPCS"). AMSC urges the Commission to reaffirm that domestic implementation of GMPCS will have no effect on the Commission's *DISCO II* framework, and encourages the Commission to adopt procedures to prevent the provision of unauthorized GMPCS service in the United States. The Commission should also make clear that its proposed interim GMPCS equipment certification standard will not prejudice its upcoming consideration of NTIA's proposed standard for out-of-band emissions into the GNSS band.

**Background**

On May 18, 1998, the Commission issued a Notice of Proposed Rule Making ("NPRM") proposing interim procedures for GMPCS equipment certification prior to domestic

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implementation of the International Telecommunications Union ("ITU") GMPCS framework.<sup>1/</sup>

The GMPCS framework is the result of a process that began in October 1996 at the ITU's World Telecommunications Policy Forum and has led to the completion of a GMPCS Memorandum of Understanding ("MOU"), GMPCS Arrangements, and, finalized in May 1998, a plan for Implementation of the GMPCS-MOU Arrangements (the "GMPCS Implementation Plan").

The goal of the GMPCS framework is to facilitate the global circulation of GMPCS terminals throughout the world without altering the sovereign rights of nations to regulate telecommunications within their territories.<sup>2/</sup> In order to realize this free global circulation, the GMPCS Implementation Plan establishes procedures for the physical placement of a "GMPCS-MOU mark" on GMPCS equipment following type acceptance of this equipment by a national administration that has commenced GMPCS implementation (a "GMPCS Signatory"). The GMPCS Arrangements recommend that GMPCS Signatories allow the circulation of GMPCS-marked terminals within their national territories on a temporary or transitory basis, even where a use of a particular GMPCS system's terminals has not been authorized by a Signatory.<sup>3/</sup>

The Commission has stated that it will soon begin a general review of its rules in order to examine whether and to what extent they may need to be amended to implement the final provisions outlined in the GMPCS Arrangements and Implementation Plan. NPRM at 15-16. As part of this review, the Commission will consider procedures for treating the variety of

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<sup>1/</sup> GMPCS service is defined in the 1996 Final Report of the World Telecommunications Policy Forum as: "any satellite system, (i.e., fixed or mobile, broadband or narrow-band, global or regional, geostationary or non-geostationary, existing or planned) providing telecommunications services directly to end users from a constellation of satellites." NPRM at 2 n. 1.

<sup>2/</sup> GMPCS-MOU at 1.

<sup>3/</sup> GMPCS Arrangements at 6, Specific Provision B. 4.

foreign-licensed GMPCS terminals that users may bring to the United States. The Commission recognizes, however, that there will likely be some interim period between the ITU's initiation of its GMPCS-terminal marking procedures and the Commission's completion of this process of domestic GMPCS implementation.

The NPRM contains proposed interim procedures for GMPCS equipment certification, which would enable terminal manufacturers to obtain authorization from the ITU to place the GMPCS-mark on all applicable terminals. Under this proposal, the Commission would allow the voluntary certification, on an interim basis, of all GMPCS equipment that meets all relevant technical standards contained in Parts 1 and 25 of the Commission's rules. NPRM at 18. In addition, GMPCS terminals operating in the 1610-1626.5 MHz frequency band would be required to meet NTIA's proposed limits on out-of-band emissions into the frequency bands allocated to the Global Navigation Satellite System ("GNSS"), including GPS and Glonass.<sup>4/</sup> NTIA proposed this standard in a petition for rulemaking in September 1997, and AMSC has opposed NTIA's proposal on the basis that this standard (i) is unnecessarily stringent, (ii) would require satellite system operators and mobile terminal manufacturers to bear the heavy burden of replacing the customers' existing non-compliant terminals, rather than placing the burden on users of GNSS, and (iii) does not take into account emissions from much more pervasive

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<sup>4/</sup> *Id.* NTIA's proposed 2005 standard is an out-of-band emission limit of -70 dBW/MHz averaged over any 20 ms period for wide band emissions occurring between 1559-1605 MHz and -80 dBW/700 Hz for narrow band emissions occurring between 1559-1605 MHz, over a measurement bandwidth of 700 Hz. Under the NTIA proposal, all mobile terminals commissioned after 2002 will be required to comply with this standard, with all non-compliant terminals either retired or adequately retrofitted by 2005. *See* Letter to Regina M. Keeney, Chief, International Bureau, from Richard D. Parlow, Associate Administrator, Spectrum Management, National Telecommunications and Information Administration (September 18, 1997).

sources, such as VHF radios operating in taxicabs, police vehicles, and other dispatch communications systems.<sup>5/</sup>

### **Discussion**

#### **I. The Commission Should Reaffirm That GMPCS Implementation Will Have No Effect on the Commission's *DISCO II* Licensing Processes**

In its *DISCO II Order*,<sup>6/</sup> the Commission made clear that domestic implementation of the GMPCS regime will have no effect on its *DISCO II* regulatory framework for providing access to foreign-licensed satellite systems. Specifically, the Commission stated that “the GMPCS MOU does not alter our blanket licensing scheme for mobile earth terminals,” and noted that “signatories to the MOU retain the authority to their own telecommunications industries.” *DISCO II Order* at para. 212. Accordingly, the GMPCS framework does not require the Commission to permit use in the U.S. of GMPCS-marked terminals operating over foreign-licensed satellite systems until those terminals have been authorized under the *DISCO II* blanket license procedure, which considers such public interest factors as spectrum availability, character issues, and technical qualifications, or until such foreign-licensed systems obtain service authorization through an application processing round.

It is particularly important to AMSC that these public interest factors be considered in the blanket licensing process for GMPCS terminals. AMSC is the domestic MSS licensee in the L-

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<sup>5/</sup> See Comments of AMSC Subsidiary Corporation, Amendment of the Commission's Rules to Incorporate Mobile Earth Station Out-of-Band Emission Limits, RM-9165 (December 8, 1995).

<sup>6/</sup> Report and Order, Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Service in the United States, 12 FCC Rcd 24094 (1997) (“*DISCO II Order*”).

band, where there is a persistent domestic and international spectrum shortage that has prevented AMSC from obtaining access to the spectrum assigned to it by the Commission. The Commission stated in the *DISCO II* proceeding that where it has already licensed the maximum number of satellites that can be accommodated in a particular frequency band, it cannot offer opportunities for new entrants, including non-U.S. satellite systems,<sup>7/</sup> and the Commission's established spectrum management policy in the L-band is not to license any other system in the band until AMSC gains full access to its licensed spectrum.<sup>8/</sup> The Commission also has imposed important requirements on the provision of MSS in the MSS L-band, including requiring all MSS operators in the L-band to provide priority and preemptive access to aeronautical safety communications.

Until the spectrum scarcity problem is solved and other MSS operators can show an ability to comply with key safety requirements, a foreign-licensed satellite system should not be permitted to market its service to individuals living in the U.S. or businesses operating in the United States. This result is consistent with the GMPCS framework, which (i) emphasizes that sovereign rights to regulate telecommunications have been left unaltered,<sup>9/</sup> (ii) establishes that GMPCS Signatories may prevent the use within their territories of GMPCS-marked terminals

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<sup>7/</sup> See *DISCO II* Order at para. 147; Notice of Proposed Rulemaking, Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Service in the United States, 11 FCC Rcd 18178, para. 50 (1996).

<sup>8/</sup> See Notice of Proposed Rulemaking, Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the Upper and Lower L-band, IB Docket No. 96-132, paras. 9-11, 16 (June 18, 1996).

<sup>9/</sup> GMPCS-MOU at 1.

providing unauthorized services,<sup>10/</sup> and (iii) recognizes that GMPCS system operators will take steps to inhibit the use of their systems in any country that has not authorized their GMPCS service.<sup>11/</sup>

In its order establishing interim GMPCS procedures in the U.S., the Commission should take the opportunity to reaffirm that the *DISCO II* framework is unaffected by domestic GMPCS implementation.

**B. The Commission Should Establish Procedures in an Effort to Prevent the Provision of Unauthorized GMPCS Service in the United States**

As indicated above, the GMPCS Arrangements recommend that GMPCS Signatories allow the free circulation of GMPCS-marked terminals within their national territories, even where use of a particular GMPCS system's terminals has not been authorized by a GMPCS Signatory. While AMSC respects this recommendation, it believes that the Commission should establish procedures to prevent unauthorized GMPCS service from being provided in the United States. Specifically, before permitting a GMPCS system operator's marked but unauthorized terminals to circulate within the United States, the Commission should require that operator to file a technical showing that describes its technical ability to prevent calls to and from terminals located in the United States. GMPCS system operators that have the technical ability to prevent such calls, through call-blocking technology or some other mechanism, should be required to implement this technology in the U.S. While AMSC is not optimistic about the effectiveness of non-technical enforcement mechanisms, GMPCS system operators without this technical capability should at least be obligated to impose some non-technical restriction on this use, such

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<sup>10/</sup> GMPCS Implementation Plan at 3, Section I, 9.

<sup>11/</sup> GMPCS Arrangements at 4, General Provision 13.

as a prohibition on such calls in customers' service contracts, with termination of service to customers violating this provision. Where there is evidence that a GMPCS system operator's terminals are being used illegally in the United States, the Commission should block the entry of its terminals until the operator can demonstrate that it can prevent such use.

The Commission should not wait until its comprehensive GMPCS rulemaking to implement these safeguards; AMSC urges the Commission to adopt protective procedures in time for the initiation of the ITU's GMPCS-marking program.

**II. The Commission Should Make Clear That Its Interim Proposal Will Not Prejudice Its Consideration of NTIA's Proposed Standard for Out-of-Band Emissions**


As mentioned above, the Commission's proposed interim GMPCS equipment certification standard includes a requirement that terminals operating in the 1610-1626.5 MHz frequency band meet the NTIA's proposed limits on out-of-band emissions into the GNSS frequency band. AMSC has opposed the adoption of the NTIA's proposed standard. AMSC urges the Commission to make clear in its interim GMPCS order that adoption of its proposed interim standard will not prejudice its consideration of the NTIA proposal in the Commission's upcoming comprehensive rulemaking on final GMPCS implementation.

**Conclusion**


Therefore, based on the foregoing, AMSC urges the Commission to act consistent with the views expressed in these Comments.

Respectfully submitted,

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July 27, 1998

  
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